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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,937	02/22/2000	Carey V. Campbell	MP/55G	2961

7590

08/04/2003

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19  
EXAMINER

NOLAN, SANDRA M

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

09/510,937

Applicant(s)

CAMPBELL ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- Th MAILING DATE f this c mmunication appears on the c ver sheet with th correspond nce address --

**P r i d f r R p l y**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent-term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 21-28 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

## **DETAILED ACTION**

### ***Claims***

1. Claims 1-28 are pending.

### ***Allowable Subject Matter***

2. Claims 1-9 are allowed.
3. The prior art of record fails to teach or suggest inflatable balloons for medical use that have all of the features of claim 1.

### ***Election/Restrictions***

4. This application contains claims 21-28 drawn to an invention nonelected by virtue of an action having made on originally presented claims 1-9. See the discussion in section 4 of the 30 December 2002 office action (Paper No. 16).
5. The restriction requirement is proper, is maintained and is made final. Its propriety is chiefly based on the fact that the structural features of claims 1-20 are not recited in claims 21-38. Thus, a reference for claims 21+ would not necessarily be applicable to claims 1-20. See claim 6 of Joseph (cited in section 15 below), which does not call for node and fibril microstructure.
6. A complete reply to this final requirement must include cancellation of the nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

### ***Specification***

7. The abstract of the disclosure is objected to for being too long. Under current PTO guidelines, an abstract should contain 150 words or less.

Correction is required. See MPEP § 608.01(b).

***Priority***

8. If applicant desires priority under 35 U.S.C. 120 based upon a previously filed application, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow its filing date.

9. The current status of each of SNs. 08/247,960 and 08/204,708—i.e., the US patent numbers therefor—should be included at page 1 of the specification.

***Rejection Withdrawn***

10. The double patenting rejection of claims 1-20, per section 6 of Paper No. 16, is withdrawn in view of the Terminal Disclaimer filed on 29 May 2003 (Paper No. 18).

***New Rejections***

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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12. Claims 10-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The phrase "the tube being non-porous" is new matter because it is not supported by the specification as originally filed.

Please point out where support can be found for the quoted language or delete it from the claims.

13. Claims 10-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not describe the preparation and/or use of inflatable balloons for medical use comprising a nonporous tube with a node and fibril microstructure.

#### ***Response to Arguments***

14. Any arguments presented earlier with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.

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***Citations of Interest***

15. Joseph (US 4,902,292) teaches, in claim 6, a medical device containing an inflatable balloon made of porous expanded polytetrafluoroethylene (PTFE).
16. Delia Cornia et al (US 4,955,899) teaches a porous PTFE tube for medical use having a coating of nonporous polymer on its outer surface.

***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan  
Patent Examiner  
Technology Center 1700

SMN/smn  
09510937(19)  
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